

Notice of Allowability

Application No.

10/003,718

Examiner

Frances P. Oropeza

Applicant(s)

TERNES ET AL.

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment (7/24/06).
2. ☒ The allowed claim(s) is/are 15-18, 20-28, 30-33, 35 and 37.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

ALLOWANCE

Reasons for Allowance

1. Claims 15-18, 20-28, 30-33, 35 and 37 are allowed. The following is an examiner's statement of reasons for allowance: The subject matter of the independent claims could either not be found or was not suggested in the prior art. The subject matter not found was a programming to:

- generate a dual-channel template by recording a depolarization waveform produced when first and second pacing pulses are delivered from the first and second pacing channels at an energy sufficient to achieve capture by each of the first and second pacing pulses,
- generate a first channel template by recording a depolarization waveform produced when first pacing pulses are delivered from the first channel at an energy sufficient to achieve capture by the first pulses with no pacing pulses delivered by the second pacing channel, and
- generate a second channel template by recording a depolarization waveform produced when second pacing pulses are delivered from the second channel at an energy sufficient to achieve capture by the second pulses with no pacing pulses delivered by the first pacing channel, in combination with the other elements of the claims.

The best prior art of record, a combination of Florio et al. (US 6512953) and Bornzin et al.

(US 6904321), teaches capture determination using templates, but does not teach a program to:

- generate a dual-channel template by recording a depolarization waveform produced when first and second pacing pulses are delivered from the first and second pacing channels at an energy sufficient to achieve capture by each of the first and second pacing pulses,

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- generate a first channel template by recording a depolarization waveform produced when first pacing pulses are delivered from the first channel at an energy sufficient to achieve capture by the first pulses with no pacing pulses delivered by the second pacing channel, and
- generate a second channel template by recording a depolarization waveform produced when second pacing pulses are delivered from the second channel at an energy sufficient to achieve capture by the second pulses with no pacing pulses delivered by the first pacing channel, in combination with the other elements of the claims.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and for After Final communications.

Frances P. Oropeza
Patent Examiner
Art Unit 3766

FPO
9/19/06


Robert E. Pezzuto
Supervisory Patent Examiner
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